

County of San Luis Obispo **Phase II MS4 Permit**

RWQCB, Region 3, Central Coast

San Luis Obispo

March 23, 2007



- **Foundational Issues: The Regional Board Process is Broken**
- **Program Components: Must Be Modified to Meet MEP and Protect Water Quality**

The Regional Board Process is Broken

EDC Decision

General Permit

Westlaw

344 F.3d 832

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344 F.3d 832, 57 ERC 1039, 33 Env'tl. L. Rep. 20,269, 03 Cal. Daily Op. Serv. 8398, 2003 Daily Journal D.A.R. 10,479
(Cite as: 344 F.3d 832)

Briefs and Other Related Documents
Environmental Defense Center, Inc. v. U.S.
E.P.A.C.A.9 (Cal.),2003.
United States Court of Appeals,Ninth Circuit.
ENVIRONMENTAL DEFENSE CENTER, INC.,
Petitioner,
Natural Resources Defense Council, Inc.,

process; (4) EPA's failure to designate industrial sources of storm water pollution for permitting requirements was not arbitrary and capricious; (5) challenge to rule's exclusion of forest roads was not time-barred; (6) forestry trade association lacked standing to challenge rule; (7) EPA properly

STATE WATER RESOURCES CONTROL BOARD (SWRCB)
WATER QUALITY ORDER NO. 2003 - 0005 - DWQ

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. CAS00000X

WASTE DISCHARGE REQUIREMENTS (WDRs)
FOR

STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM
SEWER SYSTEMS (MS4s) (GENERAL PERMIT)

It is not anticipated that the SWMP be fully implemented upon submittal with the NOI.

storm
are designed by regulated parties must, in every
instance, be subject to meaningful review by an
appropriate regulating entity to ensure that each
such program reduces the discharge of pollutants to
the maximum extent practicable.

United States Environmental Protection Agency,
Respondent,
Natural Resources Defense Council, Inc.,
Respondent-Intervenor.
Nos. 00-70014, 00-70734, 00-70822.

Argued and Submitted Dec. 3, 2001.
Filed Sept. 15, 2003.

Environmental, municipal, and industry groups brought petitions for review of Environmental Protection Agency (EPA) rule mandating that discharges from small municipal storm sewers and construction sites be subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements. On denial of rehearing, the Court of Appeals, James R. Browning, Circuit Judge, held that: (1) EPA had authority to impose rule; (2) rule did not violate the Tenth Amendment; (3) rule improperly failed to provide for review of notices of intent and public participation in NPDES permitting

149E Environmental Law
149EV Water Pollution
149Ek174 Substances, Sources, and
Activities Regulated
149Ek176 k. Sewage and Sewers. Most
Cited Cases

Environmental Law 149E ¶196

149E Environmental Law
149EV Water Pollution
149Ek194 Permits and Certifications
149Ek196 k. Discharge of Pollutants.
Most Cited Cases
Storm sewers are established "point sources" subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements under Clean Water Act (CWA). Federal Water Pollution Control Act Amendments of 1972, § 101 et seq., 33 U.S.C.A. § 1251 et seq.

The Regional Board Process is Broken

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER: WQ 2000 - 11

In the Matter of the Petitions of
**THE CITIES OF BELLFLOWER, ET AL., THE CITY OF ARCADIA, AND
WESTERN STATES PETROLEUM ASSOCIATION**
Review of January 26, 2000 Action of the Regional Board
and
Actions and Failures to Act

MEP
requires permittees to choose effective BMPs [Best Management Practices], and
to reject applicable BMPs only where other effective BMPs will serve the same
purpose, the BMPs would not be technically feasible, or the cost would be
prohibitive.

p. 20

SWRCB/OCC FILES A-1280, A-1280(a) and A-1280(b)

The Regional Board Process is Broken

Problems

Polluted Waters



Photo: San Luis Obispo Coastkeeper

California 2002 303(d) Listed Waterbodies in the Permit Coverage Area

Atascadero Creek – Fecal Coliform
Atascadero Creek Low – Dissolved Oxygen
Chorro Creek – Fecal Coliform
Chorro Creek – Nutrients
Chorro Creek – Sedimentation/Siltation
Los Osos Creek – Fecal Coliform
Los Osos Creek – Low Dissolved Oxygen
Los Osos Creek – Nutrients
Los Osos Creek – Sedimentation/Siltation
Morro Bay – Metals
Morro Bay – Pathogens
Morro Bay – Sedimentation/Siltation High
Nipomo Creek – Fecal Coliform
Oso Flaco Creek – Fecal Coliform
Oso Flaco Creek – Nitrate
Salinas River - upper – Chloride
Salinas River - upper – Sodium
San Luis Obispo Creek – Nutrients
San Luis Obispo Creek – Pathogens
San Luis Obispo Creek – Priority Organics

The Regional Board Process is Broken

Problems

Polluted Waters

Rapid Population Growth

- Increased Impervious Surfaces
- Lack of Permittee Coordination

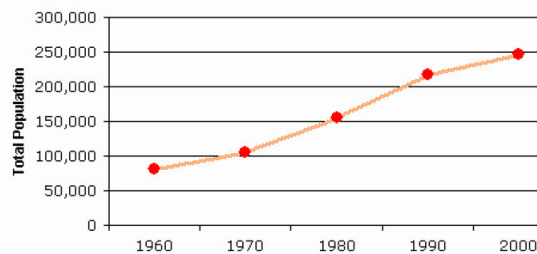
CensusScope

[HTTP://WWW.CENSUSCOPE.ORG](http://www.censuscope.org)

San Luis Obispo County

POPULATION GROWTH

Population, 1960-2000



San Luis Obispo County Population Projections, June, 2005

PLANNING AREA or Community	Population in Households (Group Quarters not included)						
	2000	2005	2010	2015	2020	2025	2030
ADELAIDA	3030	3200	3638	4136	4703	5347	6079
EL POMAR / ESTRELLA	7099	8152	9450	10956	12701	14723	17068
ESTERO	28603	28730	30721	33288	35276	37394	39653
Morro Bay	10152	10313	10759	11224	11709	12215	12743
Cayucos	2929	3067	3176	3289	3405	3526	3651
Los Osos	14343	14160	15566	17525	18879	20338	21910
Estero (Rural)	1179	1190	1220	1251	1282	1315	1348
HUASNA-LOPEZ	798	898	1041	1207	1399	1622	1880
LAS PILITAS	1313	1384	1440	1499	1560	1623	1689
LOS PADRES	309	318	341	365	392	420	450
NACIMIENTO	2778	3147	3357	3563	3782	4015	4261
NORTH COAST	7053	7344	7487	7851	8233	8634	9055
Cambria	6210	6495	6613	6950	7304	7677	8069
North Coast (Rural)	843	849	875	901	929	957	986
SALINAS RIVER	61306	68702	74821	80789	86699	92872	99305
Atascadero	24884	25044	27267	28658	30120	31857	33771

COUNTY TOTAL	245860	260727	279404	299257	319510	341375	365016
San Luis Obispo County	245860	260727	279404	299257	319510	341375	365016
San Luis Obispo County (Households Only)	230289	244887	263564	283417	303670	325535	349176
Incorporated Cities	137444	144537	153756	162615	171500	180899	190843
Unincorporated Area	92845	100350	109807	120802	132170	144636	158333
GROUP QUARTERS (2)							
Incorporated Cities	4816	4462	4462	4462	4462	4462	4462
Unincorporated Area	10755	11378	11378	11378	11378	11378	11378
COUNTY TOTAL	245860	260727	279404	299257	319510	341375	365016

<http://www.slocounty.ca.gov/Assets/PL/pdfs/Projections+June+2005.pdf>

The Regional Board Process is Broken

Problems

Polluted Waters

Rapid Population Growth

Sea Otter Hotspot



Center of a 20 km
long, 1.5 km wide
coastal sea otter
habitat with high *T.
gondii*-seropositivity



The Regional Board Process is Broken

General Permit

Attachment 4
To WQO 2003-0005-DWQ

Areas subject to high growth or serving a population of at least 50,000 must comply with the following provisions (for counties this threshold population applies to the population within the permit area).

A. RECEIVING WATER LIMITATIONS

1. Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule (CTR), or in the applicable RWQCB Basin Plan.

1. Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule (CTR), or in the applicable RWQCB Basin Plan.

Water Limitations A.1 by complying with the following procedure:

- a. Upon a determination by either the permittees or the RWQCB that discharges are causing or contributing to an exceedance of an applicable WQS, the permittees shall promptly notify and thereafter submit a report to the RWQCB that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSS. The report may be incorporated in the annual update to the SWMP unless the RWQCB directs an earlier submittal. The report shall include an implementation schedule. The RWQCB may require modifications to the report.
- b. Submit any modifications to the report required by the RWQCB within 30 days of notification.
- c. Within 30 days following approval of the report described above by the RWQCB, the permittees shall revise the SWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.
- d. Implement the revised SWMP and monitoring program in accordance with the approved schedule.

So long as the permittees have complied with the procedures set forth above and are implementing the revised SWMP, the permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the RWQCB to develop additional BMPs.

B. DESIGN STANDARDS

- **Foundational Issues: The Regional Board Process is Broken**
- **Program Components: Must Be Modified to Meet MEP and Protect Water Quality**

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

EDC Decision

General Permit

<p>Westlaw</p> <p>344 F.3d 832</p> <p>Page 1</p> <p>344 F.3d 832, 57 ERC 1039, 33 Envtl. L. Rep. 20,269, 03 Cal. Daily Op. Serv. 8398, 2003 Daily Journal D.A.R. 10,479 (Cite as: 344 F.3d 832)</p> <p>Briefs and Other Related Documents Environmental Defense Center, Inc. v. U.S. E.P.A.C.A.9 (Cal.),2003. United States Court of Appeals,Ninth Circuit. ENVIRONMENTAL DEFENSE CENTER, INC., Petitioner, Natural Resources Defense Council, Inc., Petitioner-Intervenor, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Respondent.</p> <p>Americ Asso United S Natu Texas Count United S Natu</p> <p>Nos. 00-70014, 00-70734, 00-70822.</p> <p>Argued and Submitted Dec. 3, 2001. Filed Sept. 15, 2003.</p> <p>Environmental, municipal, and industry groups brought petitions for review of Environmental Protection Agency (EPA) rule mandating that discharges from small municipal storm sewers and construction sites be subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements. On denial of rehearing, the Court of Appeals, James R. Browning, Circuit Judge, held that: (1) EPA had authority to impose rule; (2) rule did not violate the Tenth Amendment; (3) rule improperly failed to provide for review of notices of intent and public participation in NPDES permitting</p> <p>process; (4) EPA's failure to designate industrial sources of storm water pollution for permitting requirements was not arbitrary and capricious; (5) challenge to rule's exclusion of forest roads was not</p> <p>EPA properly retained authority to designate future sources of storm water pollution for regulation.</p> <p>Petitions for review granted in part and denied in</p> <p>149Ek176 k. Sewage and Sewers. Most Cited Cases</p> <p>Environmental Law 149E ¶196</p> <p>149E Environmental Law 149EV Water Pollution 149Ek194 Permits and Certifications 149Ek196 k. Discharge of Pollutants.</p> <p>Most Cited Cases Storm sewers are established "point sources" subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements under Clean Water Act (CWA). Federal Water Pollution Control Act Amendments of 1972, § 101 et seq., 33 U.S.C.A. § 1251 et seq.</p> <p>© 2007 Thomson/West. No Claim to Orig. U.S. Govt. Works.</p>	<p>STATE WATER RESOURCES CONTROL BOARD (SWRCB) WATER QUALITY ORDER NO. 2003 - 0005 - DWQ</p> <p>NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT NO. CAS00000X</p> <p>WASTE DISCHARGE REQUIREMENTS (WDRs) FOR STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM</p> <p>It is not anticipated that the SWMP be fully implemented upon submittal with the NOI.</p>
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Impermissibility

Vague

Develop and disseminate a construction site BMP policy and procedures guidance manual. The CASQA Construction BMP Manual can be used as a model.

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Impermissible
Delay

- mapping delayed over **five years** (Program section 4 at 48)
- ordinances adoption delayed to **years 2-5** (Program section 4 at 47, 53, 56, 62)
- illicit discharge and detection checklist and enforcement delayed to **year 3** (Program section 4 at 50, 51, 52)
- post-construction measure delayed until **year 3** (Program section 4 at 62-64)
- street sweeping delayed to **year 3** (Program section 4 at 70)
- storm drain inspection and cleaning delayed to **year 2** (Program section 4 at 71)

Program Components: Must Be Modified to Meet MEP and Protect Water Quality



Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Construction
Program

SLO Proposal

CONSTRUCTION SITE RUNOFF CONTROL										
BMP ID#	BEST MANAGEMENT PRACTICES (BMPs) <i>WHAT WE WILL DO AND HOW WE WILL DO IT</i>	BMP INTENT <i>WHY WE WILL DO IT</i>	MEASURABLE GOALS AND OUTCOMES <i>HOW WE WILL MEASURE EFFECTIVENESS</i>	BMP IMPLEMENTATION TIMETABLE <i>WHEN WE WILL DO IT</i>					COUNTY OF SLO IMPLEMENTERS <i>WHO WILL DO IT</i>	
				PERMIT YEAR						
				1	2	3	4	5		
			number.							
CON3	Conduct construction site inspections and enforce construction site runoff control requirements.	To reduce pollutants in stormwater runoff by controlling the discharge of pollutants from construction sites greater than or equal to one acre in size using construction site inspections and enforcement.	CON3A: Create a procedure for inspecting construction site stormwater BMPs to ensure they are being implemented and are properly maintained. Establish a protocol to determine inspection priorities and frequency based on potential water quality impacts.		X	X	X	X	Department of Planning and Building Chief Building Official	
CON4	Conduct a public education and outreach program for construction runoff controls targeting project applicants, contractors, developers, property owners and other responsible parties. Also see BMP PE8.	To reduce pollutants in stormwater runoff by controlling the discharge of pollutants from construction sites greater than or equal to one acre in size using public education and outreach.	CON4A: Issue site education information with construction applications for sites with one acre or more of land disturbance. CON4B: Include construction site runoff control public outreach information in Stormwater Prevention and Outreach Program. CON4C: Measure and record the number of permittees receiving						Department of Planning and Building Chief Building Official Works Services er V of Planning Building Planner (Center) nmental Specialist Works Services er V	
				X	X	X	X	X		

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

BMP GUIDANCE SERIES

As described in Section 13(a) of the City's Ordinance No. _____ in the Article titled "Urban Storm Water Quality Management and Discharge Control" the City has adopted this *BMP Guidance Series* containing Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S.

Where Best Management Practices requirements are promulgated by the City or any federal, State of California, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

The Public Works Director will report to the City Council annually on the status of implementation of BMPs and any new BMPs to be developed for inclusion in the *BMP Guidance Series*.

Notwithstanding the presence or absence of requirements promulgated in this *BMP Guidance Series*, any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

Construction

Other Programs

Notwithstanding the presence or absence of requirements promulgated in this *BMP Guidance Series*, any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement **Best Management Practices** to the extent they are technologically achievable to prevent and reduce such pollutants.

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

CONSTRUCTION SITE PLAN REVIEW AND INSPECTION PROCEDURES

The attached figure shows the steps in the Construction Site Plan Review and Inspection Procedures. The text below describes what will be done in each of these steps. Each municipality will develop and implement an effective system to track active construction sites. The system will include basic site information such as owner, location, contractor, status, size, and project start and completion date.

The municipality will determine how best to integrate these procedures into its existing project review process, and which departments will be responsible for each of the Steps described below.

There will be an annual meeting of construction inspectors from all of the Participating Entities prior to the start of the rainy season to discuss and share ideas regarding construction site BMPs.

Step 1: Determine the size of the project. If construction of the project will disturb less than 1 acre of land, the project will be subject to the normal permit processes, and General Permit stormwater requirements will not apply. However, in its discretion the municipality may impose some or all of the construction stormwater requirements contained in its Urban Storm Water Quality Management and Discharge Control Ordinance (Ordinance) on projects disturbing less than 1 acre of land.

Those projects disturbing 1 or more acres of land will need to be covered by a general permit for construction activity storm water discharges from the RWQCB in addition to existing permit processes.

Sites Disturbing 1 or More Acres

Step 2: Applicants will be provided information about the NPDES permit requirements, including the NOI filing process and the need to develop a construction site SWPPP. (Municipalities that frequently have projects of this size within their jurisdictions should keep blank copies of the NOI form at the Public Works/Community Development department counters for this purpose.) Applicants will be referred to the RWQCB office, and to the SWRCB website, to obtain guidance on preparing a construction site SWPPP.

The applicant shall provide the municipality with the following information prior to the municipality issuing a grading or building permit:

- a. Proof that a SWPPP NOI has been submitted to the Regional Board
- b. A vicinity map that shows nearby roadways, the construction site perimeter, the geographic features and general topography surrounding the site.
- c. A site map showing the construction site in detail, including the existing and planned paved areas and buildings; general topography both before and after construction; drainage patterns across the project area; and anticipated stormwater discharge locations.
- d. A detailed site specific listing of the potential sources of stormwater pollution that may result from the proposed construction work.
- e. A description of the type and location of erosion and sediment control BMPs to be employed at the site.
- f. The Name and telephone number of the qualified person responsible for implementing the

Construction

Other Programs

Program Components: Must Be Modified to Meet MEP and Protect Water Quality



Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Post-Construction

SLO Proposal

POST-CONSTRUCTION STORMWATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT										
BMP ID#	BEST MANAGEMENT PRACTICES (BMPS) WHAT WE WILL DO AND HOW WE WILL DO IT	BMP INTENT WHY WE WILL DO IT	MEASURABLE GOALS AND OUTCOMES HOW WE WILL MEASURE EFFECTIVENESS	BMP IMPLEMENTATION TIMETABLE WHEN WE WILL DO IT					COUNTY OF SLO IMPLEMENTERS WHO WILL DO IT	
				PERMIT YEAR						
				1	2	3	4	5		
PC1	Adopt and enforce revisions to the County Land Use Ordinances (Titles 22 and 23) to require specific post-construction stormwater management controls for new development and redevelopment projects that disturb one acre or more of land and provide enforcement sanctions to ensure compliance. Model ordinances will be used to draft these revisions.	To reduce pollutants in stormwater runoff by requiring long-term post-construction BMPs that protect water quality and control runoff in new development and significant redevelopment projects.	PC1A: Revise existing ordinances to require specific post-construction stormwater management controls including the <u>Design Standards specified in Attachment 4 of the MS4 General Permit</u> according to the schedule shown. See Appendix D for Attachment 4 requirements.			X	X	X	Department of Planning and Building Code	
										Revise existing ordinances to require specific post-construction stormwater management controls including the <u>Design Standards specified in Attachment 4 of the MS4 General Permit</u> according to the schedule shown. See Appendix D for Attachment 4 requirements.

Section 4 Page 62

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

MANDATORY DESIGN STANDARDS

All discretionary development and redevelopment projects that fall into one of the following categories are subject to the Design Standards set forth below. These categories are:

1. Single-Family Hillside Residences
2. 100,000 Square Foot Commercial Developments
3. Automotive Repair Shops
4. Retail Gasoline Outlets
5. Restaurants
6. Home Subdivisions with 10 or more housing units
7. Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff

1. Design Standards Applicable to All Categories:

a. Peak Storm Water Runoff Discharge Rates. Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion.

b. Conserve Natural Areas. If determined appropriate by the City, the following items must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:

- 1) Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.
- 2) Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.
- 3) Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
- 4) Promote natural vegetation by using parking lot islands and other landscaped areas.
- 5) Preserve riparian areas and wetlands.

c. Minimize Storm Water Pollutants of Concern. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna. In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable.

Post
Construction

Other Programs

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Post-Construction Program

GUIDANCE DOCUMENT FOR POLICIES AND PROCEDURES PERTAINING TO NEW DEVELOPMENT AND REDEVELOPMENT

BACKGROUND

Primarily two concerns are associated with new development and significant redevelopment. As communities are progressively built out, impervious surfaces replace natural topography, and storm water peak flows and volume increase, resulting in changes to stream morphology. Secondly, new urban areas add to the urban runoff pollutant loads by creating new sources. Numerous studies show that controlling pollutants after they have entered the storm drain system is far more difficult and expensive than preventing or reducing the discharge at the source.

If areas of the municipality proposed for new development or redevelopment are planned, designed, and constructed in a manner that is sensitive to issues of quantity and quality of urban runoff, then future pollutant loads from these areas will be reduced.

POLICY

It is the policy of the municipality to reduce the potential for discharge of pollutants into urban runoff from new development and redevelopment areas using a strategy that combines:

- ◆ Reducing/eliminating sources of pollutants
- ◆ Managing site runoff volumes and flow rates such that they are similar to preconstruction levels, and
- ◆ Treating runoff when/if appropriate

This policy will be carried out by enforcing the provisions of the Urban Storm Water Quality Management and Discharge Control Ordinance (Ordinance) which are applicable to new development and redevelopment sites.

PROCEDURES

The Development Projects Plan Review and Inspection Procedures described in Appendix E will be utilized to ensure that appropriate measures are included in the design of projects to mitigate storm water pollution that may result from them. The review procedure is intended to ensure that appropriate BMPs for development projects, as described in the BMP Guidance Series contained in Appendix E of this MRSWMP, are incorporated into the design of these projects.

As described in the *BMP Guidance Series* for New Development and Redevelopment in this Appendix E, if a project applicant is required to include Structural or Treatment Control BMPs in project plans, the City will require that the applicant provide verification of maintenance provisions through such means as may be appropriate, including, but not limited to legal agreements, covenants, CEQA mitigation requirements and/or Conditional Use Permits. For those sites, the City will not normally perform post-construction inspections, but may perform such inspections on a spot-check basis to verify that these provisions are being carried out. For some sites it may be impractical to require such provisions, and those sites will have to be inspected more frequently.

Post-construction site inspections will be performed and documented using the Post-Construction Site

Program Components: Must Be Modified to Meet MEP and Protect Water Quality



Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Enforcement/
Inspections

SLO Proposal

ILLCIT DISCHARGE DETECTION AND ELIMINATION										
BMP ID#	BEST MANAGEMENT PRACTICES (BMPS) WHAT WE WILL DO AND HOW WE WILL DO IT	BMP INTENT WHY WE WILL DO IT	MEASURABLE GOALS AND OUTCOMES HOW WE WILL MEASURE EFFECTIVENESS	BMP IMPLEMENTATION TIMETABLE WHEN WE WILL DO IT					COUNTY OF SLO IMPLEMENTERS WHO WILL DO IT	
				PERMIT YEAR						
				1	2	3	4	5		
IL4	Implement procedures for illicit connections/discharge inspections and dry weather screening for the storm sewer system including residential, commercial business, industrial and other governmental and quasi-governmental discharges. These procedures will apply to anyone discharging into the County storm sewer system. The procedures will ensure that any illicit connection or discharge detected will be detected and eliminated.	To reduce pollutants in storm water runoff by detecting and eliminating illicit connections and discharges to the storm sewer system.	IL4A: Develop and implement a procedure and checklist for detecting illicit connections and discharges. IL4B: Inspect for illicit connections and discharges during storm drain and cross-connection inspections. See MO3. IL4C: Establish a system of enforcement and penalties to ensure illicit connections and discharges are eliminated according to the adopted ordinance in BMP IL1. ILD: Track and trend violations to determine additional preventive and corrective actions that may be needed. Report these results annually.	X	X	X	X	X	Public Works Road Operations Superintendent and Public Health Deve a procedure detecting ill and dischar the Stormwater Pollution Prevention Coordinator	

Develop and implement a procedure and checklist for detecting illicit connections and discharges.

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Enforcement/ Inspections



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

FEB 08 2007

Roger W. Briggs
Executive Officer
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Dear Mr. Briggs:

We are writing in regard to proposed Resolution No. R3-2006-0022 which is scheduled for adoption at the February 9-10 meeting of the Regional Board. This Resolution would approve the proposed Monterey Regional Storm Water Management Program (MRSWMP), which was developed in accordance with the requirements of the State Board's general NPDES permit for small MS4s (permit No. CAS000004). We are concerned that the proposed MRSWMP does not meet the requirements of reducing pollutant loadings to the Maximum Extent Practicable (MEP), consistent with the State Board's general permit for small MS4s and U.S. EPA regulations.

The MRSWMP does not target identified priorities or establish measurable goals for activities identified as causing water quality problems. For example, the MRSWMP identifies pollutants generated from the restaurant industry (soap, grease, food from exterior mat

However, the commitment to inspect 5% of restaurants/automotive facilities equates to only 1-2 inspections for Sand City, 4 inspections for Pacific Grove, 16 inspections for Monterey, etc. The low level of measurable goals does not appear to add up to developing, implementing, and enforcing an effective stormwater management program.

The proposed MRSWMP generally does not include meaningful, measurable goals. For example, the MRSWMP commits to provide outreach to 75 restaurants, inspect 5% of restaurants/automotive facilities per year, and inspect 100% of RV parks and marinas per year. However, the commitment to inspect 5% of restaurants/automotive facilities equates to only 1-2 inspections for Sand City, 4 inspections for Pacific Grove, 16 inspections for Monterey, etc. The low level of measurable goals does not appear to add up to developing, implementing, and enforcing an effective stormwater management program.

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

ENTITY: MONTEREY COUNTY		
BUSINESS CATEGORY		
AUTOMOTIVE REPAIR SHOPS AND GAS STATIONS		
Name	Address	Community
CARMEL VALLEY CHEVRON	38 W CARMEL VALLEY RD	CARMEL VALLEY
CARMEL VALLEY GARAGE	14 CARMEL VALLEY RD	CARMEL VALLEY
BEACON STATION 3728	11775 MERRITT ST	CASTROVILLE
CASTROVILLE AUTO REPAIR, INC	11501 MERRITT ST	CASTROVILLE
CASTROVILLE CHEVRON SERVICE	11601 MERRITT ST	CASTROVILLE
CASTROVILLE UNION 76 #256024	11400 MERRITT ST	CASTROVILLE
GONZALEZ AUTO SERVICE AND SMOG	11551 MERRITT ST	CASTROVILLE
HAN'S REBUILDING	10800 MCDUGAL ST STE D	CASTROVILLE
QUALITY COLLISION AUTO WORKS	11098 WOOD ST	CASTROVILLE
SELBY PETROLEUM INC	11000 COMMERCIAL PKWY	CASTROVILLE
URIBE'S DIESEL & GASOLINE	10800 MCDUGALL ST STE C	CASTROVILLE
BENITO'S AUTO BODY SHOP	23 SAN JUAN RD UNIT B	PAJARO
MR LUBRICATION, INC	8485 N PRUNEDALE RD	PRUNEDALE
PRUNEDALE VALERO	2347 SAN MIGUEL CYN RD	PRUNEDALE
RYAN'S AUTOMOTIVE	10161 REESE CIR STE D	PRUNEDALE
STEVE BRADFORD AUTOMOTIVE	901 EL CAMINO REAL N STE A	PRUNEDALE
VALLEY AUTO WORKS	816 EL CAMINO REAL N STE B	PRUNEDALE
BROTHERS ROYAL OAKS MKT	12 MAHER RD	ROYAL OAKS
CASILLAS BROTHERS BEACON	100 HWY 68	SALINAS
TORO PARK REFUELING STATION	501 HIGHWAY 68	SALINAS
ALLIANCE GAS PRODUCTS	4 SAN JUAN RD	WATSONVILLE
CHAZ AUTO	38 PORTER DR	WATSONVILLE
COAST GAS-WATSONVILLE	885 SALINAS RD	WATSONVILLE
DIAZ GARAGE	23 SAN JUAN RD	WATSONVILLE
HILLTOP MINI MART	1007 SALINAS RD STE A	WATSONVILLE
M & A AUTO REPAIR	46 PORTER DR	WATSONVILLE
MEDINA AUTO REPAIR	46 PORTER DR #3	WATSONVILLE
MONTEREY AUTO BODY SHOP	125 SALINAS RD BLDG 3	WATSONVILLE
MORENO PETROLEUM CO	33 ASSOCIATED LN	WATSONVILLE
MORIMOTO'S TRANSMISSION	66 BROOKLYN ST STE A	WATSONVILLE
NOLASCO BODY SHOP	70 ELKHORN RD	WATSONVILLE
PAJARO AUTO CENTER	225 SALINAS RD BLDG 4-B	WATSONVILLE
QUIK STOP MARKET #77	1 PORTER DR	WATSONVILLE
RENTERIA'S TIRE SERVICE & MECHANICS	300 SALINAS RD	WATSONVILLE
STURDY OIL-FERM'S SERVICE	41 PORTER RD	WATSONVILLE
WEST COAST AUTO SERVICE	21 BISHOP ST	WATSONVILLE

Enforcement/
Inspections

Other Programs

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Compliance Inspection Checklist for Food Service Facilities

Date of Inspection	
Facility Name	
Facility Address	
Facility Contact Person	
Facility Telephone	
Inspector's Name	

HOUSEKEEPING	YES	NO	OTHER
<i>Equipment Cleaning</i>			
<i>Indoor Cleaning:</i> Is equipment cleaned in a designated area, such as a mop sink, pot sink, or floor area with a drain connected to the sanitary sewer?			
<i>Outdoor Cleaning:</i> Is equipment cleaned in a designated covered, bermed area with a drain connected to the sanitary sewer?			
Is equipment cleaned outdoors in any area where water may flow to a street, gutter, storm drain, or creek?			
Are floor mats used that are small enough to be cleaned inside in a mop sink or near a floor drain?			
Are floor mats that are too big to clean indoors, taken to a self-service car wash to clean?			
<i>Grease Handling and Disposal</i>			
Is oil, grease, sauce, salad dressings, or waste grease prevented from being poured down a storm drain, or into a dumpster?			
Is waste grease from grease interceptors and traps being properly disposed of by a responsible disposal firm (such as one listed under "Grease Traps" and "Septic tanks" in the yellow pages)?			
SPILL CLEANUP AND SURFACE CLEANING	YES	NO	OTHER
<i>Spill Prevention</i>			
Is the Spill Response Plan maintained and kept current?			
Is the distance between waste collection points and storage areas minimized?			
Are all solid and liquid wastes contained and covered?			
Are absorbent materials and other spill response equipment maintained in accordance with local			

Enforcement/
Inspections

Other Programs

Program Components: Must Be Modified to Meet MEP and Protect Water Quality



Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Monitoring

SLO Proposal

PUBLIC PARTICIPATION AND INVOLVEMENT										
BMP ID#	BEST MANAGEMENT PRACTICES (BMPS) WHAT WE WILL DO AND HOW WE WILL DO IT	BMP INTENT WHY WE WILL DO IT	MEASURABLE GOALS AND OUTCOMES HOW WE WILL MEASURE EFFECTIVENESS	BMP IMPLEMENTATION TIMETABLE WHEN WE WILL DO IT PERMIT YEAR					COUNTY OF SLO IMPLEMENTERS WHO WILL DO IT	
				1	2	3	4	5		
PP5	Promote and support Watershed Stewardship Programs including, but not limited to: volunteer water quality monitoring, watershed planning, community reforestation, storm drain marking, community cleanups, and other environmental restoration activities. Also see BMP PE16.	To promote community support for the SWMP and reduce pollution from urban runoff.	PP5A: Promote and support the introduction of Urban Watch and First Flush Monitoring Programs in SLO County. PP5B: Promote and support Snapshot Day Citizen's Monitoring Program. PP5C: Promote and support community reforestation programs. PP5D: Promote and support watershed planning activities. Also see BMP PE16.	X	X	X	X	X	Public Works Environmental Programs Division Stormwater Pollution Prevention Coordinator <div>Promote and support the introduction of Urban Watch and First Flush Monitoring Programs in SLO County.</div>	
PP6	Meet with Water Resources Advisory Committee (WRAC) to obtain stakeholder input and feedback on stormwater issues, program priorities, and program performance.	To provide a mechanism to engage stakeholder involvement.	PP6A: Provide stormwater updates to the WRAC at least twice per year. PP6B: Record meeting attendance and comments.	X	X	X	X	X	Public Works Environmental Programs Division Stormwater Pollution Prevention Coordinator	

Promote and support the introduction of Urban Watch and First Flush Monitoring Programs in SLO County.

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

A Practical Plan for Pollution Prevention

biological impacts to receiving waters resulting from urban runoff, and 4) assessing the overall health and evaluating long-term trends in receiving water quality.

In order to maximize efficiency, the Monterey Region municipalities can jointly conduct monitoring through a single contractor with countywide coordination implementing a watershed-based approach. Monitoring results shall be assessed and reported on a watershed basis as a single report by the municipalities consisting of one common section and watershed sub-sections.

In this connection, it is important for the Monterey Region municipalities to assess previous, current and future monitoring practices. Within 180 days of the approval of the Monterey Proposal, the municipalities must prepare a report, which at a minimum:

- A. Summarizes the cumulative findings of all previous wet and dry weather monitoring;
- B. Identifies detectable trends in water quality data and receiving water quality, based on the cumulative previous monitoring findings;
- C. Interprets the cumulative previous monitoring findings;
- D. Draw conclusions regarding the cumulative previous monitoring findings;
- E. Provide recommendations for future monitoring activities; and
- F. Include an executive summary, introduction, conclusion, and summary of recommendations.

Based on the findings of this report, the develop, submit, conduct, and report on *Monitoring Program*. The goals of both clearly stated. The Receiving Waters Monitoring Program shall begin within 180 days of

The Receiving Waters Monitoring Program components:

- A. Urban Stream Bioassessment Monitoring
- B. Long-term Mass Loading Monitoring
- C. Coastal Storm Drain Outfall Monitoring
- D. Ambient Bay, Lagoon, and Coastal Receiving Water Monitoring
- E. Toxic Hot Spots Monitoring

A. Urban Stream Bioassessment Monitoring

1. The Monterey Region municipalities shall collaborate to develop and implement an urban stream bioassessment monitoring program. At a minimum, the program shall consist of station identification, sampling, monitoring, and analysis of data for 20 bioassessment stations in order to determine the biological and physical integrity of urban streams within the county. In addition to the urban stream bioassessment stations, three

Monitoring

Other Programs

- A. Urban Stream Bioassessment Monitoring
- B. Long-term Mass Loading Monitoring
- C. Coastal Storm Drain Outfall Monitoring
- D. Ambient Bay, Lagoon, and Coastal Receiving Water Monitoring
- E. Toxic Hot Spots Monitoring

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Monitoring

Other Programs

LOCATION OF PROPOSED REVISION	(where shown)	conducted source tracking using upstream monitoring for highest priority pollutants and use this to identify probable sources; inspect these sources under Minimum Control Measure No. 3 and take appropriate corrective actions in accordance with BMPs 3-3.d and 3-4.a				REVISION If proposed for insertion, only the new text is shown in bold font. If deleting text are proposed, the deletions are shown in strikethrough (existing language shown in normal font)	
	Priority Control Measure titled "4-13.7 and First Flush data;	conduct source tracking using upstream monitoring for highest priority pollutants and use this to identify probable sources; inspect these sources under Minimum Control Measure No. 3 and take appropriate corrective actions in accordance with BMPs 3-3.d and 3-4.a				In each of the indicated years perform source tracking on the two highest priority pollutants of concern on a minimum of one outfall, and report on findings and actions taken in the Annual Reports for each of the indicated years.	MS4 Administration

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Monitoring

Other Programs

LOCATION OF PROPOSED REVISION	sh	<p>A minimum of 25% of all outfalls within the MRSWMP area will be monitored four times a year in each of the indicated years. Representative samples will be collected to account for seasonal variation.</p>				SED REVISION ns are proposed for insertion, only the new text is o existing text are proposed, the revisions are shown of the existing language shown in normal font)		
Table 4-1 Page 10	<p>W th Wa wi t wh co res th A vol</p>					<p>A minimum of 25% of all outfalls within the MRSWMP area will be monitored four times a year in each of the indicated years. Representative samples will be collected to account for seasonal variation.</p> <p>The results will be included in the Annual Reports for those years.</p>	MRSWMP Group	
	<p>including those that discharge to a 303(d) listed water body. Conduct monitoring on these additional outfalls for a similar set of constituents as are monitored under the Urban Watch and First Flush Programs. Monterey County will focus on 303(d) listed water bodies in Year 2, and will expand into the other water bodies over the remaining permit term.</p>		X	X	X	X		

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Sea Otters

SLO Proposal

STORMWATER POLLUTION PREVENTION PUBLIC EDUCATION AND OUTREACH										
BMP ID#	BEST MANAGEMENT PRACTICES (BMPS) WHAT WE WILL DO AND HOW WE WILL DO IT	BMP INTENT WHY WE WILL DO IT	MEASURABLE GOALS AND OUTCOMES HOW WE WILL MEASURE EFFECTIVENESS	BMP IMPLEMENTATION TIMETABLE WHEN WE WILL DO IT PERMIT YEAR					COUNTY OF SLO IMPLEMENTERS WHO WILL DO IT	
				1	2	3	4	5		
	and other animal owners. The program will place special emphasis on protecting sea otters and other sensitive wildlife. The program will also emphasize public health concerns for surfers and other recreational water users and shell fish harvesting as well as other water quality problems associated with urban runoff contaminated by pathogens and nutrients from fecal material. Critical topics include, but are not limited to: instructions on how to properly dispose of cat litter and other pet wastes in the trash rather than flushing it down the toilet to keep pathogens out of creeks and the ocean; proper storage of pet food to avoid attracting opossums and other wildlife into urban areas, pet spay/neuter programs, and feral animal control programs. Also see BMP IL11 Pet Waste Management Ordinance.	urban areas. To protect public health, sea otters and other wildlife, and water quality by educating the public about the proper disposal of pet and animal wastes and other responsible pet owner behaviors.	on an ongoing basis. PE18B: Adopt a pet waste ordinance including enforcement provisions by the end of Year 2. Publicize the pet waste ordinance on an ongoing basis. PE18C: Distribute pet waste management brochures with dog license renewals. PE18D: Distribute pet waste management brochures at Animal Shelters, Pet Stores, Veterinarian Offices, 4H Clubs, and Farm Supply Stores in the permit coverage area. PE18E: Post pet waste management public education and outreach information on the County website. PE18F: Distribute pet waste management educational information to general residential		X	X	X	X		Public Works Adopt a pet waste ordinance including enforcement provisions by the end of Year 2. Publicize the pet waste ordinance on an ongoing basis. Distribute pet waste management brochures with dog license renewals.
				X	X	X	X	X		
				X	X	X	X	X		
				X	X	X	X	X		

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

Sea Otters

LOCATION OF PROPOSED REVISION	PROPOSED REVISION						Paragraphs or sections are proposed for insertion, only the new text is shown. If partial revisions to existing text are proposed, the revisions are shown in bold with the remainder of the existing language shown in normal font)
Table 4-1 Page 10	<p>Year 1: Based on existing scientific studies and data identify with specificity the geographic areas within the jurisdiction of each municipality that are sources of pollution, including T. Gondii, and other pathogens, impacting California sea otters and results included in the Annual Report;</p> <p>Year 2: Create and implement a program to reduce and eliminate the sources of pollution identified as impacting sea otters. The program and implementation will be described in the Annual Report.</p>						<p>Year 1: Based on existing scientific studies and data identify with specificity the geographic areas within the jurisdiction of each municipality that are sources of pollution, including T. Gondii, and other pathogens, impacting California sea otters and results included in the Annual Report;</p> <p>Year 2: Create and implement a program to reduce and eliminate the sources of pollution identified as impacting sea otters. The program and implementation will be described in the Annual Report.</p> <p>MRSWMP Group</p>

Program Components: Must Be Modified to Meet MEP and Protect Water Quality

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December 10, 2004

Mr. Bruce Fujimoto
Ms. Jarma Bennett
Division of Water Quality
State Water Resources Control Board



With the missing elements and delays, it is my opinion that the SWMP falls short of the level it must reach to achieve the ultimate goal required of regulated entities by the State Water Resources Control Board's ("SWRCB") Water Quality Order No. 2003-0005-DWQ ("the Order), which is to reduce the discharge of pollutants to the maximum extent practicable ("MEP"); comply with discharge prohibitions; and, in the case of larger entities, lead to attainment of receiving water objectives.

Dear Mr. Fujimoto, Ms. Bennett, and Mr. Smith:

At the request of the Natural Resources Defense Council (NRDC) I reviewed San Luis Obispo County's Storm Water Management Program ("SWMP"). I wish to submit the following comments on my evaluation. I first provide a general overview of my opinion. Following a summary of my background and qualifications to perform the review, I then submit more detailed comments and recommendations. I wish to qualify my intentions by clearly stating that it is not my role, and I have not set out, to delineate every alteration or improvement of the SWMP that should be made. I do want to exemplify some elements both to bolster my critique and contribute to future progress.

The SWMP presents an organized structure that could form a good foundation for a strong program. However, it lacks some crucial elements and, more broadly, overly delays implementation of many initiatives. My comments note a number of instances of both shortcomings. Thoroughly addressing those points would produce a program capable of safeguarding San Luis Obispo County's important regional aquatic resources.

With the missing elements and delays, it is my opinion that the SWMP falls short of the level it must reach to achieve the ultimate goal required of regulated entities by the State Water Resources Control Board's ("SWRCB") Water Quality Order No. 2003-0005-DWQ ("the Order), which is to reduce the discharge of pollutants to the maximum extent practicable ("MEP"); comply with discharge prohibitions; and, in the case of larger entities, lead to attainment of receiving water objectives.